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10/053,954	01/24/2002	Kevin F. Dudley	10399	5959

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EXAMINER

SWARTHOUT, BRENT

ART UNIT PAPER NUMBER

2636

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,954

Applicant(s)

DUDLEY, KEVIN F.

Examiner

Brent A Swarthout

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The disclosure is objected to because of the following informalities: In claim 6, line 6 "of the of level" is not grammatically correct. In claim 14, line 2 "is operative determine" is not grammatically correct. In claim 21, line 1 "a plurality of location" is not grammatically correct.

Appropriate correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

a. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitamura et al.

Kitamura discloses a air conditioned providing system comprising providing entry of a comfort level at plural data entry devices (Fig. 13), collecting the entered data and determining an overall comfort level for a group of entry devices (col.8, lines 33-42), transmitting an overall comfort level indication to an air conditioning system and modifying conditioned air when the overall comfort level of a particular value is received (col.15, lines 5-12; col.20, lines 54-67).

Regarding claim 2, Kitamura discloses menu (Fig. 13).

Regarding claim 4, Kitamura discloses use of personal computer 101 (Fig. 11).

Regarding claim 6, Kitamura teaches summing numerical values of comfort level (col.3, lines 25-29; col.8, lines 33-44).

Regarding claim 7, each data entry device has a unique identifier (Figure 14).

Regarding claim 9, Kitamura teaches storage of comfort level values (col.13, line 65-col.14, line3).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

b. Claims 10-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitamura et al in view of Kline et al.

Kitamura discloses an overall comfort level air conditioned modifying system as set forth above, except for specifically stating that the heating and cooling system was a HVAC system.

Kline teaches use of a well-known HVAC system for heating and air conditioning.

It would have been obvious to use a HVAC system to provide air conditioning/heating in a system as disclosed by Kitamura, in order that the overall comfort level could have been provided with existing heating and cooling systems.

Regarding claim 12, since entered comfort level by an individual is sent via electronic mail (col.20, lines 43-48), the local computer would have stored the entered value as sent mail.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Federspiel, Newsham, Ahmed, Funakoshi, Lomonaco and Baldwin disclose building temperature control systems.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A Swarthout whose telephone number is 703-305-4383. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 703-305-4717. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brent A Swarthout
Examiner
Art Unit 2636

BRENT A. SWARTHOUT
PRIMARY EXAMINER